

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation)
Against:)
)
)
Lucy Mayela Saenz, M.D.)
)
Physician's and Surgeon's)
Certificate No. A 56461)
)
Respondent)
_____)

Case No. 800-2015-017635

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on June 13, 2019.

IT IS SO ORDERED: May 14, 2019.

MEDICAL BOARD OF CALIFORNIA



**Kristina D. Lawson, J.D., Chair
Panel B**

1 XAVIER BECERRA
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2 ALEXANDRA M. ALVAREZ
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3 KAROLYN M. WESTFALL
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8 *Attorneys for Complainant*

9
10 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 800-2015-017635

14 **LUCY MAYELA SAENZ, M.D.**
15 **1215 E. 17th Street**
Santa Ana, CA 92701

OAH No. 2018100715

16 **Physician's and Surgeon's Certificate No.**
17 **A56461**

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

18 Respondent.

19
20 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
21 entitled proceedings that the following matters are true:

22 **PARTIES**

23 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
24 of California (Board). She brought this action solely in her official capacity and is represented in
25 this matter by Xavier Becerra, Attorney General of the State of California, by Karolyn M.
26 Westfall, Deputy Attorney General.

27 ///

28 ///

1 **CULPABILITY**

2 9. Respondent does not contest that, at an administrative hearing, Complainant could
3 establish a *prima facie* case with respect to the charges and allegations contained in Accusation
4 No. 800-2015-017635, and agrees that she has thereby subjected her Physician's and Surgeon's
5 Certificate No. A56461 to disciplinary action.

6 10. Respondent further agrees that if she ever petitions for modification or early
7 termination of probation, or if an accusation and/or petition to revoke probation is filed against
8 her before the Medical Board of California, all of the charges and allegations contained in
9 Accusation No. 800-2015-017635, shall be deemed true, correct, and fully admitted by
10 Respondent for purposes of any such proceeding or any other licensing proceeding involving
11 Respondent in the State of California.

12 11. Respondent agrees that her Physician's and Surgeon's Certificate No. A56461 is
13 subject to discipline and she agrees to be bound by the Board's imposition of discipline as set
14 forth in the Disciplinary Order below.

15 **CONTINGENCY**

16 12. This Stipulated Settlement and Disciplinary Order shall be subject to approval of the
17 Board. The parties agree that this Stipulated Settlement and Disciplinary Order shall be
18 submitted to the Board for its consideration in the above-entitled matter and, further, that the
19 Board shall have a reasonable period of time in which to consider and act on this Stipulated
20 Settlement and Disciplinary Order after receiving it. By signing this stipulation, Respondent fully
21 understands and agrees that he may not withdraw his agreement or seek to rescind this stipulation
22 prior to the time the Board considers and acts upon it.

23 13. The parties agree that this Stipulated Settlement and Disciplinary Order shall be null
24 and void and not binding upon the parties unless approved and adopted by the Board, except for
25 this paragraph, which shall remain in full force and effect. Respondent fully understands and
26 agrees that in deciding whether or not to approve and adopt this Stipulated Settlement and
27 Disciplinary Order, the Board may receive oral and written communications from its staff and/or
28 the Attorney General's office. Communications pursuant to this paragraph shall not disqualify

1 the Board, any member thereof, and/or any other person from future participation in this or any
2 other matter affecting or involving Respondent. In the event that the Board, in its discretion, does
3 not approve and adopt this Stipulated Settlement and Disciplinary Order, with the exception of
4 this paragraph, it shall not become effective, shall be of no evidentiary value whatsoever, and
5 shall not be relied upon or introduced in any disciplinary action by either party hereto.

6 Respondent further agrees that should the Board reject this Stipulated Settlement and Disciplinary
7 Order for any reason, Respondent will assert no claim that the Board, or any member thereof, was
8 prejudiced by its/his/her review, discussion and/or consideration of this Stipulated Settlement and
9 Disciplinary Order or of any matter or matters related hereto.

10 **ADDITIONAL PROVISIONS**

11 14. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to
12 be an integrated writing representing the complete, final and exclusive embodiment of the
13 agreements of the parties in the above-entitled matter.

14 15. The parties agree that copies of this Stipulated Settlement and Disciplinary Order,
15 including copies of the signatures of the parties, may be used in lieu of original documents and
16 signatures and, further, that such copies and signatures shall have the same force and effect as
17 originals.

18 16. In consideration of the foregoing admissions and stipulations, the parties agree the
19 Board may, without further notice to or opportunity to be heard by Respondent, issue and enter
20 the following Disciplinary Order:

21 **DISCIPLINARY ORDER**

22 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A56461 issued
23 to Respondent, Lucy Mayela Saenz, M.D., is revoked. However, the revocation is stayed and
24 Respondent is placed on probation for three (3) years from the effective date of the Decision on
25 the following terms and conditions.

26 1. **EDUCATION COURSE.** Within 60 calendar days of the effective date of this
27 Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee
28 for its prior approval educational program(s) or course(s) which shall not be less than 40 hours

1 per year, for each year of probation. The educational program(s) or course(s) shall be aimed at
2 correcting any areas of deficient practice or knowledge and shall be Category I certified. The
3 educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to
4 the Continuing Medical Education (CME) requirements for renewal of licensure. Following the
5 completion of each course, the Board or its designee may administer an examination to test
6 Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65
7 hours of CME of which 40 hours were in satisfaction of this condition.

8 2. PRESCRIBING PRACTICES COURSE. Within 60 calendar days of the effective
9 date of this Decision, Respondent shall enroll in a course in prescribing practices approved in
10 advance by the Board or its designee. Respondent shall provide the approved course provider
11 with any information and documents that the approved course provider may deem pertinent.
12 Respondent shall participate in and successfully complete the classroom component of the course
13 not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully
14 complete any other component of the course within one (1) year of enrollment. The prescribing
15 practices course shall be at Respondent's expense and shall be in addition to the Continuing
16 Medical Education (CME) requirements for renewal of licensure.

17 A prescribing practices course taken after the acts that gave rise to the charges in the
18 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
19 or its designee, be accepted towards the fulfillment of this condition if the course would have
20 been approved by the Board or its designee had the course been taken after the effective date of
21 this Decision.

22 Respondent shall submit a certification of successful completion to the Board or its
23 designee not later than 15 calendar days after successfully completing the course, or not later than
24 15 calendar days after the effective date of the Decision, whichever is later.

25 3. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective
26 date of this Decision, Respondent shall enroll in a course in medical record keeping approved in
27 advance by the Board or its designee. Respondent shall provide the approved course provider
28 with any information and documents that the approved course provider may deem pertinent.

1 Respondent shall participate in and successfully complete the classroom component of the course
2 not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully
3 complete any other component of the course within one (1) year of enrollment. The medical
4 record keeping course shall be at Respondent's expense and shall be in addition to the Continuing
5 Medical Education (CME) requirements for renewal of licensure.

6 A medical record keeping course taken after the acts that gave rise to the charges in the
7 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
8 or its designee, be accepted towards the fulfillment of this condition if the course would have
9 been approved by the Board or its designee had the course been taken after the effective date of
10 this Decision.

11 Respondent shall submit a certification of successful completion to the Board or its
12 designee not later than 15 calendar days after successfully completing the course, or not later than
13 15 calendar days after the effective date of the Decision, whichever is later.

14 4. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of
15 the effective date of this Decision, Respondent shall enroll in a professionalism program, that
16 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1.
17 Respondent shall participate in and successfully complete that program. Respondent shall
18 provide any information and documents that the program may deem pertinent. Respondent shall
19 successfully complete the classroom component of the program not later than six (6) months after
20 Respondent's initial enrollment, and the longitudinal component of the program not later than the
21 time specified by the program, but no later than one (1) year after attending the classroom
22 component. The professionalism program shall be at Respondent's expense and shall be in
23 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

24 A professionalism program taken after the acts that gave rise to the charges in the
25 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
26 or its designee, be accepted towards the fulfillment of this condition if the program would have
27 been approved by the Board or its designee had the program been taken after the effective date of
28 this Decision.

1 Respondent shall submit a certification of successful completion to the Board or its
2 designee not later than 15 calendar days after successfully completing the program or not later
3 than 15 calendar days after the effective date of the Decision, whichever is later.

4 5: MONITORING - PRACTICE/BILLING. Within 30 calendar days of the effective
5 date of this Decision, Respondent shall submit to the Board or its designee for prior approval as a
6 practice monitor, the name and qualifications of one or more licensed physicians and surgeons
7 whose licenses are valid and in good standing, and who are preferably American Board of
8 Medical Specialties (ABMS) certified. A monitor shall have no prior or current business or
9 personal relationship with Respondent, or other relationship that could reasonably be expected to
10 compromise the ability of the monitor to render fair and unbiased reports to the Board, including
11 but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree
12 to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

13 The Board or its designee shall provide the approved monitor with copies of the Decision
14 and Accusation, and a proposed monitoring plan. Within 15 calendar days of receipt of the
15 Decision, Accusation, and proposed monitoring plan, the monitor shall submit a signed statement
16 that the monitor has read the Decision and Accusation, fully understands the role of a monitor,
17 and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the
18 proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed
19 statement for approval by the Board or its designee.

20 Within 60 calendar days of the effective date of this Decision, and continuing throughout
21 probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall
22 make all records available for immediate inspection and copying on the premises by the monitor
23 at all times during business hours and shall retain the records for the entire term of probation.

24 If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective
25 date of this Decision, Respondent shall receive a notification from the Board or its designee to
26 cease the practice of medicine within three (3) calendar days after being so notified. Respondent
27 shall cease the practice of medicine until a monitor is approved to provide monitoring
28 responsibility.

1 The monitor shall submit a quarterly written report to the Board or its designee which
2 includes an evaluation of Respondent's performance, indicating whether Respondent's practices
3 are within the standards of practice of medicine, and whether Respondent is practicing medicine
4 safely. It shall be the sole responsibility of Respondent to ensure that the monitor submits the
5 quarterly written reports to the Board or its designee within 10 calendar days after the end of the
6 preceding quarter.

7 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of
8 such resignation or unavailability, submit to the Board or its designee, for prior approval, the
9 name and qualifications of a replacement monitor who will be assuming that responsibility within
10 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60
11 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a
12 notification from the Board or its designee to cease the practice of medicine within three (3)
13 calendar days after being so notified. Respondent shall cease the practice of medicine until a
14 replacement monitor is approved and assumes monitoring responsibility.

15 In lieu of a monitor, Respondent may participate in a professional enhancement program
16 approved in advance by the Board or its designee that includes, at minimum, quarterly chart
17 review, semi-annual practice assessment, and semi-annual review of professional growth and
18 education. Respondent shall participate in the professional enhancement program at Respondent's
19 expense during the term of probation.

20 After one (1) year of full compliance with probation, Respondent may request in writing for
21 the approval by the Board or its designee, to remove this condition entirely.

22 6. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
23 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
24 Chief Executive Officer at every hospital where privileges or membership are extended to
25 Respondent, at any other facility where Respondent engages in the practice of medicine,
26 including all physician and locum tenens registries or other similar agencies, and to the Chief
27 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
28 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15

1 calendar days.

2 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

3 7. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE
4 NURSES. During probation, Respondent is prohibited from supervising physician assistants and
5 advanced practice nurses.

6 8. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules
7 governing the practice of medicine in California and remain in full compliance with any court
8 ordered criminal probation, payments, and other orders.

9 9. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations
10 under penalty of perjury on forms provided by the Board, stating whether there has been
11 compliance with all the conditions of probation.

12 Respondent shall submit quarterly declarations not later than 10 calendar days after the end
13 of the preceding quarter.

14 10. GENERAL PROBATION REQUIREMENTS.

15 Compliance with Probation Unit

16 Respondent shall comply with the Board's probation unit.

17 Address Changes

18 Respondent shall, at all times, keep the Board informed of Respondent's business and
19 residence addresses, email address (if available), and telephone number. Changes of such
20 addresses shall be immediately communicated in writing to the Board or its designee. Under no
21 circumstances shall a post office box serve as an address of record, except as allowed by Business
22 and Professions Code section 2021(b).

23 Place of Practice

24 Respondent shall not engage in the practice of medicine in Respondent's or patient's place
25 of residence, unless the patient resides in a skilled nursing facility or other similar licensed
26 facility.

27 License Renewal

28 Respondent shall maintain a current and renewed California physician's and surgeon's

1 license.

2 Travel or Residence Outside California

3 Respondent shall immediately inform the Board or its designee, in writing, of travel to any
4 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty
5 (30) calendar days.

6 In the event Respondent should leave the State of California to reside or to practice,
7 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of
8 departure and return.

9 11. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be
10 available in person upon request for interviews either at Respondent's place of business or at the
11 probation unit office, with or without prior notice throughout the term of probation.

12 12. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
13 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
14 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
15 defined as any period of time Respondent is not practicing medicine as defined in Business and
16 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct
17 patient care, clinical activity or teaching, or other activity as approved by the Board. If
18 Respondent resides in California and is considered to be in non-practice, Respondent shall
19 comply with all terms and conditions of probation. All time spent in an intensive training
20 program which has been approved by the Board or its designee shall not be considered non-
21 practice and does not relieve Respondent from complying with all the terms and conditions of
22 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
23 on probation with the medical licensing authority of that state or jurisdiction shall not be
24 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
25 period of non-practice.

26 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
27 months, Respondent shall successfully complete the Federation of State Medical Boards' Special
28 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program

1 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model
2 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

3 Respondent's period of non-practice while on probation shall not exceed two (2) years.

4 Periods of non-practice will not apply to the reduction of the probationary term.

5 Periods of non-practice for a Respondent residing outside of California will relieve
6 Respondent of the responsibility to comply with the probationary terms and conditions with the
7 exception of this condition and the following terms and conditions of probation: Obey All Laws;
8 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or
9 Controlled Substances; and Biological Fluid Testing.

10 13. COMPLETION OF PROBATION: Respondent shall comply with all financial
11 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
12 completion of probation. Upon successful completion of probation, Respondent's certificate shall
13 be fully restored.

14 14. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
15 of probation is a violation of probation. If Respondent violates probation in any respect, the
16 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
17 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,
18 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have
19 continuing jurisdiction until the matter is final, and the period of probation shall be extended until
20 the matter is final.

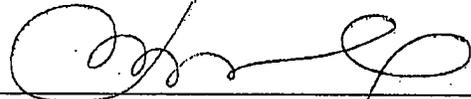
21 15. LICENSE SURRENDER. Following the effective date of this Decision, if
22 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
23 the terms and conditions of probation, Respondent may request to surrender his or her license.
24 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in
25 determining whether or not to grant the request, or to take any other action deemed appropriate
26 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent
27 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its
28 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject

1 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
2 application shall be treated as a petition for reinstatement of a revoked certificate.

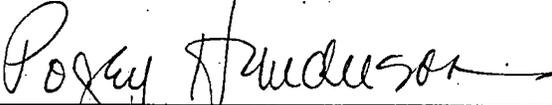
3 16. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
4 with probation monitoring each and every year of probation, as designated by the Board, which
5 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
6 California and delivered to the Board or its designee no later than January 31 of each calendar
7 year.

8 ACCEPTANCE

9 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
10 discussed it with my attorneys, Dennis K. Ames and Poge H. Henderson. I understand the
11 stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this
12 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree
13 to be bound by the Decision and Order of the Medical Board of California.

14
15 DATED: 2/19/19 
16 LUCY MAYELA SAENZ, M.D.
Respondent

17 I have read and fully discussed with Respondent Lucy Mayela Saenz, M.D. the terms and
18 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
19 I approve its form and content.

20
21 DATED: 2/20/19 
22 DENNIS K. AMES, ESQ.
POGEY H. HENDERSON, ESQ.
Attorneys for Respondent

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

Dated: 2/20/19

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General



KAROLYN M. WESTFALL
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2015-017635

1 XAVIER BECERRA
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2 ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
3 KAROLYN M. WESTFALL
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8 *Attorneys for Complainant.*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO SPR 11 2018
BY POWA ANALYST

10 BEFORE THE
11 MEDICAL BOARD OF CALIFORNIA
12 DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

Case No. 800-2015-017635

14 LUCY MAYELA SAENZ, M.D.
15 1215 E. 17th Street
16 Santa Ana, CA 92701

ACCUSATION

17 Physician's and Surgeon's Certificate
No. A56461,

18 Respondent.

19
20 Complainant alleges:

21 PARTIES

22 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
23 capacity as the Executive Director of the Medical Board of California, Department of Consumer
24 Affairs (Board).

25 2. On or about December 11, 1996, the Medical Board issued Physician's and Surgeon's
26 Certificate No. A56461 to Lucy Mayela Saenz, M.D. (Respondent). The Physician's and
27 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
28 herein and will expire on May 31, 2020, unless renewed.

JURISDICTION

1
2 3. This Accusation is brought before the Board, under the authority of the following
3 laws. All section references are to the Business and Professions Code (Code) unless otherwise
4 indicated.

5 4. Section 2227 of the Code states:

6 “(a) A licensee whose matter has been heard by an administrative law judge of the
7 Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or
8 whose default has been entered, and who is found guilty, or who has entered into a
9 stipulation for disciplinary action with the board, may, in accordance with the provisions of
10 this chapter:

11 “(1) Have his or her license revoked upon order of the board.

12 “(2) Have his or her right to practice suspended for a period not to exceed one year
13 upon order of the board.

14 “(3) Be placed on probation and be required to pay the costs of probation monitoring
15 upon order of the board.

16 “(4) Be publicly reprimanded by the board. The public reprimand may include a
17 requirement that the licensee complete relevant educational courses approved by the board.

18 “(5) Have any other action taken in relation to discipline as part of an order of
19 probation, as the board or an administrative law judge may deem proper.

20 “(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical
21 review or advisory conferences, professional competency examinations, continuing
22 education activities, and cost reimbursement associated therewith that are agreed to with the
23 board and successfully completed by the licensee, or other matters made confidential or
24 privileged by existing law, is deemed public, and shall be made available to the public by
25 the board pursuant to Section 803.1.”

26 5. Section 2234 of the Code, states, in pertinent part:

27 “The board shall take action against any licensee who is charged with unprofessional
28 conduct. In addition to other provisions of this article, unprofessional conduct includes, but

1 is not limited to, the following:

2 “(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting
3 the violation of, or conspiring to violate any provision of this chapter.

4 “(b) Gross negligence.

5 “(c) Repeated negligent acts. To be repeated, there must be two or more negligent
6 acts or omissions. An initial negligent act or omission followed by a separate and distinct
7 departure from the applicable standard of care shall constitute repeated negligent acts.

8 “(1) An initial negligent diagnosis followed by an act or omission medically
9 appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

10 “(2) When the standard of care requires a change in the diagnosis, act, or omission
11 that constitutes the negligent act described in paragraph (1), including, but not limited to, a
12 reevaluation of the diagnosis or a change in treatment, and the licensee’s conduct departs
13 from the applicable standard of care, each departure constitutes a separate and distinct
14 breach of the standard of care.

15 “...”

16 6. Section 2266 of the Code states:

17 “The failure of a physician and surgeon to maintain adequate and accurate records
18 relating to the provision of services to their patients constitutes unprofessional conduct.”

19 **FIRST CAUSE FOR DISCIPLINE**

20 **(Gross Negligence)**

21 7. Respondent has subjected her Physician’s and Surgeon’s Certificate No.
22 A56461 to disciplinary action under sections 2227 and 2234, as defined by section 2234,
23 subdivision (b), of the Code, in that Respondent committed gross negligence in her care and
24 treatment of Patients A, B, and C¹, as more particularly alleged hereinafter:

25 ///

26 ///

27 _____
28 ¹ To protect the privacy of all patients involved, patient names have not been included in this
pleading. Respondent is aware of the identity of the patients referred to herein.

1 PATIENT A

2 8. On or about June 14, 2011,² Patient A, a then forty-three (43) year old male, began
3 receiving treatment from Respondent as his primary care physician. Patient A had a history of
4 pneumonia and bronchitis, having just been released from the hospital the day prior. In this initial
5 visit, Respondent completed a brief physical examination, referred the patient out for labs, and
6 diagnosed him with, among other things, pulmonary dysfunction. Respondent referred Patient A
7 to pulmonology, and prescribed Patient A Tramadol³ for pain. The very brief note for this visit
8 does not reference the type of pain the patient was experiencing, or any limitations on his
9 function.

10 9. Between on or about June 14, 2011, through on or about June 18, 2013, Respondent
11 saw Patient A for approximately thirteen (13) clinical visits. Throughout that time, Patient A
12 received controlled substances from multiple providers, and filled prescriptions at numerous
13 different pharmacies. Throughout that time, Respondent never obtained a pulse ox reading from
14 Patient A, never prepared a pain contract, never consulted CURES,⁴ never contacted the
15 pharmacy, never performed any drug screens, and never documented any discussions with the
16 patient regarding risks and benefits associated with his medication regimen.

17 10. On or about June 21, 2011, Patient A returned for a follow-up visit, with complaints
18 of a rash and pain. A physical examination is not documented in the patient's chart. At the
19 completion of the visit, Respondent switched the patient from Tramadol to Hydrocodone.⁵

20 ///

21 _____
22 ² Conduct occurring more than seven (7) years from the filing date of this Accusation is for
informational purposes only and is not alleged as a basis for disciplinary action.

23 ³ Tramadol (brand name Ultram and ConZip), used to treat pain, is a Schedule IV controlled
24 substance pursuant to Health and Safety Code section 11057, and a dangerous drug pursuant to Business
and Professions Code section 4022.

25 ⁴ CURES, the Controlled Substance Utilization Review and Evaluation System, is a database of
26 Schedule II, III and IV controlled substance prescriptions dispensed in California serving the public health,
regulatory oversight agencies, and law enforcement.

27 ⁵ Hydrocodone (brand name Vicodin), used to treat pain, is a Schedule III controlled substance
28 pursuant to Health and Safety Code section 11056, subdivision (e), and a dangerous drug pursuant to
Business and Professions Code section 4022.

1 The very brief note for this visit does not reference the type of pain the patient was experiencing,
2 or any limitations on his function.

3 11. On or about August 30, 2011, Patient A presented to Respondent to obtain sleep study
4 results. A physical examination is not documented in the patient's chart, but Respondent
5 diagnosed the patient with sleep apnea.

6 12. On or about September 13, 2011, Patient A presented to Respondent with complaints
7 of respiratory problems and a recent panic attack. Neither a physical nor mental examination is
8 documented in the patient's chart. At the completion of the visit, Respondent prescribed the
9 patient Xanax,⁶ Lexapro,⁷ and Vicodin, and referred him to psychiatry. The brief note for this
10 visit contains little information about the panic attack, and contains no documentation that the
11 patient was warned about additive sedation when using benzodiazepines with opioids.

12 13. On or about March 12, 2013, Patient A presented to Respondent with complaints of
13 shoulder pain. The patient had been receiving treatment elsewhere and had not seen Respondent
14 since October 20, 2011, but Respondent did not obtain the patient's records from any other
15 provider. A physical examination is not documented in the patient's chart. At the completion of
16 the visit, Respondent prescribed Patient A with Vicodin and Robaxin,⁸ and referred him to
17 orthopedics and pulmonology. A referral to pain management was made but not documented.

18 14. On or about March 15, 2013, Patient A presented to Respondent with an apparent
19 skin reaction to Robaxin. A physical examination is not documented in the patient's chart, and
20 there is no further description of the rash. At the completion of the visit, Respondent switched the
21 patient to Amrix.⁹

22 ⁶ Xanax (brand name for Alprazolam), used to treat anxiety and panic disorder, is a Schedule IV
23 controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous
24 drug pursuant to Business and Professions Code section 4022.

25 ⁷ Lexapro (brand name for Escitalopram), used to treat depression and generalized anxiety
26 disorder, is a selective serotonin reuptake inhibitor (SSRI), and a dangerous drug pursuant to Business and
27 Professions Code section 4022.

28 ⁸ Robaxin (brand name for Methocarbamol) is a muscle relaxant used to treat muscle spasms and
29 pain, and is a dangerous drug pursuant to Business and Professions Code section 4022.

⁹ Amrix (brand name for Cyclobenzaprine) is a muscle relaxant used to treat muscle spasms and
30 pain, and is a dangerous drug pursuant to Business and Professions Code section 4022.

1 15. On or about April 18, 2013, Patient A presented to Respondent with complaints of
2 severe pain and dizziness. The patient informed Respondent that he had recently suffered a fall
3 that caused him to break two (2) teeth. A physical examination is not documented in the patient's
4 chart, and the very brief note for this visit contains no further reference to the cause of the fall or
5 dizziness. At the completion of the visit, Respondent prescribed the patient Vicodin.

6 16. On or about June 11, 2013, Respondent's office received notification that Patient A
7 was being seen by pain management, and a request that Respondent no longer provide any pain
8 medication to Patient A.

9 17. On or about June 18, 2013, Patient A presented to Respondent for a final visit, having
10 just been released from the hospital with pneumonia. The patient had a second degree burn on his
11 arm. A physical examination is not documented in the patient's chart, and the very brief note for
12 this visit contains no further reference to the cause of the burn. At the completion of the visit,
13 Respondent prescribed the patient Hydrocodone, but advised the patient not to fill the prescription
14 until he was seen by pain management.

15 **PATIENT B**

16 18. On or about November 12, 2011, Respondent prescribed Mixed Amphetamine Salts¹⁰
17 to Patient B, an immediate family member.

18 19. On or about May 15, 2018, Respondent was interviewed by an investigator from the
19 Division of Investigations. During that interview, Respondent admitted to prescribing this
20 medication to her family member to help him concentrate while in law school.

21 **PATIENT C**

22 20. On or about September 1, 2014, and on or about February 6, 2015, Respondent
23 prescribed Promethazine/Codeine¹¹ to Patient C, an immediate family member.

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26 ¹⁰ Mixed Amphetamine Salts (brand name Adderall), used for for attention-deficit hyperactivity
27 disorder and narcolepsy, is a Schedule II controlled substance pursuant to Health and Safety Code section
11055, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.

28 ¹¹ Promethazine/Codeine (brand name Phenergan), an antihistamine and narcotic analgesic
combination, is a dangerous drug pursuant to Business and Professions Code section 4022.

1 treatment of Patient A, as more particularly alleged in paragraphs 7 through 22, above, which are
2 hereby incorporated by reference and realleged as if fully set forth herein.

3 **PRAYER**

4 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
5 and that following the hearing, the Medical Board of California issue a decision:

- 6 1. Revoking or suspending Physician's and Surgeon's Certificate No. A56461, issued to
7 Respondent, Lucy Mayela Saenz, M.D.;
- 8 2. Revoking, suspending, or denying approval of Respondent, Lucy Mayela Saenz,
9 M.D.'s authority to supervise physician assistants and advanced practice nurses;
- 10 3. Ordering Respondent, Lucy Mayela Saenz, M.D., if placed on probation, to pay the
11 Board the costs of probation monitoring; and
- 12 4. Taking such other and further action as deemed necessary and proper.

13
14 DATED:
15 September 11, 2018


16 KIMBERLY KIRCHMEYER
17 Executive Director
18 Medical Board of California
19 Department of Consumer Affairs
20 State of California
21 Complainant

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